

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**In Re:**

**MOTOR LIQUIDATION COMPANY, *et al.*  
f/k/a General Motors Corp., *et al.***

Debtors.

**Chapter 11  
Case No. 09-50026 (REG)**

**(Jointly Administered)**

**BRIEF IN SUPPORT OF RESPONSE OF CLAIMANT,  
DONALD WARNER (Claim No. 71177)  
TO 245TH OMNIBUS OBJECTION TO CLAIMS AND MOTION  
REQUESTING ENFORCEMENT OF BAR DATE ORDERS**

The claim of Donald Warner is a first party claim for no-fault benefits arising under Michigan law, being MCLA 500.3101 *et. seq.* The claim arises under the Michigan Automobile Financial Responsibility Law which requires each motor vehicle to be insured pursuant to the terms of the Michigan No-Fault Act.

On May 9, 2007, Mr. Warner was the driver of a 2001 White Cadillac STS vehicle. He was on his way to work at the GM Tech Center in Warren, MI. A driver disregarded a traffic signal and pulled in front of Mr. Warner's vehicle. In the resulting collision, Mr. Warner

sustained a fractured sternum, fractured ribs, bruised liver and injuries to his neck and back resulting in a cervical discectomy and fusion which occurred on June 16, 2008.

Under the Michigan No-Fault Act, General Motors was the “no-fault carrier” responsible for Mr. Warner’s no-fault benefits including medical expenses, wage loss, nursing and replacement services arising out of this accident. General Motors was in effect the party that provided the requisite financial responsibility for the vehicle Mr. Warner was driving.

When a dispute arose as to the nature and extent of the no-fault claims incurred by Mr. Warner as a result of this accident, litigation was filed in the Wayne County Circuit Court being Case No. 08-112267-NF, filed May 13, 2008. That case proceeded through the litigation process and ultimately resulted in a negotiated settlement of the no-fault claim as evidenced by a Settlement Agreement/Release transmitted to attorney Joseph Howitt who was representing Mr. Warner on April 30, 2009, see attached **Exhibit 1**.

Before the terms of the settlement could be completed the Debtor filed for bankruptcy. The settlement has never been paid.

The proceedings in the Circuit Court were stayed based on the bankruptcy filing.

The Claimant has inquired as to the status of the bankruptcy and has not received any Order from the Bankruptcy Court establishing a claim bar date, specifically the one referred to in the 245<sup>th</sup> Omnibus Objection establishing a November 30, 2009 claim date.

Mr. Warner, through his attorney, did receive notice of the voluntary petition filing June 1, 2009.

In addition, Mr. Warner, though not his attorney, received such documents as a Notice of Hearing to Consider Approval of Debtor’s Proposed Disclosure Statement with Respect to Debtor’s Joint Chapter 11 Plan dated September 3, 2010.

Debtor also received Notice of Entry of Order Confirming Debtor's Second Amended Joint Chapter 11 Plan and Occurrence of Effective Date dated April 11, 2011.

There was no claim on file on behalf of the Claimant. As of this time, Claimant filed a claim on May 26, 2011 to have some claim on record. The Notice of 245<sup>th</sup> Omnibus Objection to Claims and Motion Requesting Enforcement of Bar Date Orders was thereafter received. A copy of the claim is attached as **Exhibit 2**. Attached as **Exhibit 3** is an Affidavit signed by attorney Joseph Howitt representing Mr. Warner verifying that no Order or other mailing was received by Claimant's attorney's office establishing any applicable claims cutoff date in this matter.

For the reasons stated herein, Claimant Donald Warner (Claim No. 71177) would request that the objection to his claim be denied and that his claim for no-fault benefits evidencing the settlement of the claim be denied and that this claim be submitted to whatever resolution procedure has been established for claims of this type.

**BERNSTEIN & BERNSTEIN, P.C.**

*/s/ Michael J. Butler*

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